

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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FERNANDEZ, et al.,	:	13-cv-04938-ARR-SMG
Plaintiff,	:	
	:	
- versus -	:	U.S. Courthouse
	:	Brooklyn, New York
	:	
KINRAY, INC., et al.,	:	August 26, 2016
Defendant	:	
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TRANSCRIPT OF CIVIL CAUSE FOR TELEPHONE CONFERENCE
BEFORE THE HONORABLE STEVEN M. GOLD
UNITED STATES MAGISTRATE JUDGE

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1 THE COURT: Good afternoon, everybody. It's --
2 well, I guess it's still morning and this is Judge Gold.

3 Who is on the phone for the plaintiffs?

4 MR. KIRSCHENBAUM: Simon Kirschenbaum and Lucas
5 Buzzard.

6 Good morning, your Honor.

7 THE COURT: Oh, hi. I wonder if you could say
8 that again a little louder please.

9 MR. KIRSCHENBAUM: Maimon Kirschenbaum and
10 Lucas Buzzard.

11 Good morning, your Honor.

12 THE COURT: Hi.

13 MR. KIRSCHENBAUM: Hi.

14 THE COURT: For defendants?

15 MS. EKELMAN: You have Felice Ekelman, your
16 Honor, and Noel Tripp.

17 Good morning.

18 THE COURT: Hi. So my purpose in scheduling
19 this telephone conference was to walk through the August
20 15th letter that I guess was a joint letter and to figure
21 out where we're moving in terms of scheduling because I
22 do not believe we have a conference or close of discovery
23 or next event kind of date pending.

24 Does somebody have a different understanding
25 that I am overlooking?

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1 MR. KIRSCHENBAUM: Your Honor, in the parties'
2 August 15th letter, there was a suggested time for
3 deposition and discovery -- and related discovery on
4 November 30th, 2016.

5 THE COURT: Okay. Thank you for pointing that
6 out to me. I believe that you also in that letter, told
7 me that there were many plaintiff depositions scheduled
8 but five left to be scheduled. What can you tell me
9 about your progress in that respect, if anything?

10 MR. KIRSCHENBAUM: Are you asking plaintiffs or
11 defendants?

12 THE COURT: Well, I whoever is capable of
13 answering me. As long as you have the floor, Mr.
14 Kirschenbaum, why don't you keep it.

15 MR. KIRSCHENBAUM: I think we're waiting for
16 defendants to get us some dates and we'll work on getting
17 them scheduled within the suggested time frame prior to
18 November 30th.

19 MS. EKELMAN: We've already given you dates
20 into October. We're just waiting for you to propose
21 dates. We basically said propose any dates and between
22 the two of us, we should be able to accommodate you.

23 MR. KIRSCHENBAUM: Okay. And we're working on
24 that.

25 MS. EKELMAN: Okay.

Proceedings

1 THE COURT: All right. I'm glad that's
2 clarified. I see that there were depositions scheduled
3 for the 18th, 23rd, 24th and 25th of August. Can you
4 bring a smile to my face and tell me that they went
5 forward even though I don't remember getting any calls
6 from them?

7 MR. KIRSCHENBAUM: I could bring a huge smile
8 to your Honor's face. Defendants decided not to take
9 those depositions, 23rd, 24 --

10 MS. EKELMAN: No, we took Romero's deposition.

11 MR. KIRSCHENBAUM: Right. I was going to
12 finish my sentence.

13 MS. EKELMAN: Okay. I'm sorry.

14 MR. KIRSCHENBAUM: The 23rd, the 24th -- the
15 depositions scheduled for 23, 24 and 25, defendants
16 indicated to us that they no longer wanted to take them.

17 THE COURT: Okay. I can live with that. So,
18 let's set a conference date for December. And you'll
19 tell me what you have in mind for the next step in the
20 case. How is 4 o'clock on December 8th for you?

21 MR. KIRSCHENBAUM: That works here, your Honor.

22 MS. EKELMAN: What time on December 8th? I'm
23 sorry, I didn't hear you.

24 THE COURT: That's all right. I was suggesting
25 4 o'clock.

Proceedings

1 MS. EKELMAN: Would it be possible to do it the
2 day before or earlier that week?

3 THE COURT: I could do the 7th at 11 a.m.

4 MS. EKELMAN: That would work better if that's
5 possible, Maimon.

6 MR. KIRSCHENBAUM: That's fine with me.

7 THE COURT: Can I get letters from you by the
8 5th telling me what you're arguing about?

9 MR. KIRSCHENBAUM: By December about what we're
10 -- you mean what discovery issues --

11 THE COURT: Yeah, what you're going to raise on
12 the 7th, so I get a preview.

13 MR. KIRSCHENBAUM: Okay. But just to be -- I
14 mean, assuming that discovery closes on November 30th
15 without a hitch, I imagine that the next step will be
16 summary judgment motions on both sides and I'm thinking
17 that it might make more sense to address those issues at
18 the conference before sort of submitting pre-motion
19 letters, just so we know that --

20 THE COURT: I don't need a pre-motion letter.
21 What I would want from you is we're satisfied with the
22 state of discovery. We're ready to move for summary
23 judgment. We're ready to submit our pre-motion
24 conference application by such and such a date. I'll
25 live with that.

Proceedings

1 MR. KIRSCHENBAUM: Okay.

2 THE COURT: All right. But what I am --

3 MR. KIRSCHENBAUM: Yes.

4 THE COURT: -- what experience teaches is that
5 there's a possibility that the letter might say although
6 we were intending to be completed by today, there are
7 several outstanding issues and here there are. So --

8 MS. EKELMAN: Very well.

9 THE COURT: -- if I get the formal letter, I
10 will be delighted, okay? And it won't take you very long
11 to write either. Okay. Thank you. And I know I have a
12 pending motion concerning the costs. I'll get to it --

13 MR. KIRSCHENBAUM: Okay.

14 THE COURT: -- in the fullness of time, I am
15 sure. Okay? Thank you.

16 MS. EKELMAN: Thank you.

17 MR. KIRSCHENBAUM: Thank you, your Honor.

18 THE COURT: Goodbye.

19 (Matter concluded)

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C E R T I F I C A T E

I, LINDA FERRARA, hereby certify that the foregoing transcript of the said proceedings is a true and accurate transcript from the electronic sound-recording of the proceedings reduced to typewriting in the above-entitled matter.

I FURTHER CERTIFY that I am not a relative or employee or attorney or counsel of any of the parties, nor a relative or employee of such attorney or counsel, or financially interested directly or indirectly in this action.

IN WITNESS WHEREOF, I hereunto set my hand this 30th day of August, 2016.


Linda Ferrara

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